

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Giansante	Team: Squad #8	CCRB Case #: 201700235	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 11/28/2016 4:19 PM	Location of Incident: Opposite 2930 Eighth Avenue; 145th Street A/B/C/D subway station; Transit District 3 stationhouse	Precinct: 32	18 Mo. SOL 5/28/2018	EO SOL 5/28/2018	
Date/Time CV Reported Mon, 01/09/2017 4:59 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Mon, 01/09/2017 4:59 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jean Alejandro	02710	954472	TB DT03
2. An Officer			TB DT03
3. SGT Bryan Smith	5308	931236	TB DT03
4. Officers			
5. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Camilo Camacho	14053	952531	TB DT03
2. LT Kelvin Jaquez	00000	944272	TB DT03
3. SGT Haroon Sadiq	2285	935670	PB CAD
4. POF Katherine Abreu	01462	954457	TB ATU

Officer(s)	Allegation	Investigator Recommendation
A.POM Jean Alejandro	Force: Opposite 2930 8th Avenue in Manhattan, Police Officer Jean Alejandro used physical force against § 87(2)(b)	
B.SGT Bryan Smith	Discourtesy: Opposite 2930 8th Avenue in Manhattan, Sergeant Bryan Smith spoke discourteously to § 87(2)(b)	
C.SGT Bryan Smith	Force: Opposite 2930 8th Avenue in Manhattan, Sergeant Bryan Smith used physical force against § 87(2)(b)	
D.SGT Bryan Smith	Force: Opposite 2930 8th Avenue in Manhattan, Sergeant Bryan Smith struck § 87(2)(b) against the ground.	

Officer(s)	Allegation	Investigator Recommendation
E. Officers	Force: Opposite 2930 8th Avenue in Manhattan, officers used physical force against § 87(2)(b)	
F.SGT Bryan Smith	Force: Opposite 2930 8th Avenue in Manhattan, Sergeant Bryan Smith used physical force against § 87(2)(b)	
G.SGT Bryan Smith	Discourtesy: Opposite 2930 8th Avenue in Manhattan, Sergeant Bryan Smith spoke discourteously to individuals.	
H. An officer	Force: Opposite 2930 8th Avenue in Manhattan, an officer used physical force against § 87(2)(b)	
I.SGT Bryan Smith	Force: In the 145th Street A/B/C/D subway station in Manhattan, Sergeant Bryan Smith used physical force against § 87(2)(b)	
J.SGT Bryan Smith	Force: In the 145th Street A/B/C/D subway station in Manhattan, Sergeant Bryan Smith struck § 87(2)(b) against a gate.	
K.SGT Bryan Smith	Discourtesy: In the 145th Street A/B/C/D subway station in Manhattan, Sergeant Bryan Smith spoke discourteously to § 87(2)(b)	
L.SGT Bryan Smith	Discourtesy: In the Transit District 3 stationhouse, Sergeant Bryan Smith spoke discourteously to § 87(2)(b)	
M. An Officer	Force: In the Transit District 3 stationhouse, an officer used physical force against § 87(2)(b)	
N. An Officer	Discourtesy: In the Transit District 3 stationhouse, an officer spoke discourteously to § 87(2)(b)	
O.SGT Bryan Smith	Abuse: In the Transit District 3 stationhouse, Sergeant Bryan Smith did not obtain medical treatment for § 87(2)(b)	
P.SGT Bryan Smith	Discourtesy: In the Transit District 3 stationhouse, Sergeant Bryan Smith spoke discourteously to § 87(2)(b)	
Q. An Officer	Discourtesy: In the Transit District 3 stationhouse, an officer spoke discourteously to § 87(2)(b)	
R.SGT Bryan Smith	Force: In the Transit District 3 stationhouse, Sergeant Bryan Smith used physical force against § 87(2)(b)	
S. An Officer	Abuse: In the Transit District 3 stationhouse, an officer threatened § 87(2)(b) with the use of force.	
T. An Officer	Force: In the Transit District 3 stationhouse, an officer struck § 87(2)(b) with a blunt instrument.	
U.POM Jean Alejandro	Force: In the Transit District 3 stationhouse, Police Officer Jean Alejandro used physical force against § 87(2)(b)	
V.SGT Bryan Smith	Force: In the Transit District 3 stationhouse, Sergeant Bryan Smith used physical force against § 87(2)(b)	
W.SGT Bryan Smith	Force: In the Transit District 3 stationhouse, Sergeant Bryan Smith used a chokehold against § 87(2)(b)	
X.SGT Bryan Smith	Force: In the Transit District 3 stationhouse, Sergeant Bryan Smith restricted § 87(2)(b) breathing.	
Y.SGT Bryan Smith	Abuse: In the Transit District 3 stationhouse, Sergeant Bryan Smith threatened § 87(2)(b) with the use of force.	

Case Summary

On December 28, 2017, § 87(2)(b) filed the following complaint by mailing a complaint form to the CCRB (BR21). The CCRB received the complaint on January 10, 2017.

On November 28, 2017, at approximately 4:19 p.m., § 87(2)(b) was standing on the west side of Eighth Avenue, opposite 2930 Eighth Avenue, near the entrance to the 155th Street B/D subway station. § 87(2)(b) allegedly sold two MetroCards to Police Officer Jean Alejandro of Transit District 3. PO Alejandro attempted to arrest § 87(2)(b) and § 87(2)(b) resisted PO Alejandro's attempts to handcuff him. Sergeant Bryan Smith and Police Officer Camilo Camacho, both of Transit District 3, joined PO Alejandro in attempting to apprehend § 87(2)(b). PO Alejandro took § 87(2)(b) to the ground (**Allegation A**). The officers then struggled with § 87(2)(b) as he continued to resist their efforts to handcuff him. Sgt. Smith allegedly told § 87(2)(b) "I said it's fucking over!" and "Stop fucking resisting! It's fucking over!" (**Allegation B**). Sgt. Smith allegedly punched § 87(2)(b) twice in the eye (**Allegation C**). Sgt. Smith also allegedly grabbed § 87(2)(b) head and struck his face against the ground twice (**Allegation D**).

A large number of officers responded to a call for backup, and unidentified officers joined the physical struggle to handcuff § 87(2)(b). Multiple unidentified officers allegedly punched and kicked § 87(2)(b) in the torso, back, and genitals (**Allegation E**). Sgt. Smith allegedly punched him in the face two or three more times before he has handcuffed, and punched him in the face again once officers handcuffed him and brought him to a standing position (**Allegation F**). A crowd of unidentified bystanders expressed their discontent at Sgt. Smith's conduct, and he allegedly told them, "I don't give a fuck. It's over. Throw his stupid ass in the car" (**Allegation G**).

PO Alejandro escorted § 87(2)(b) to a vehicle for transport, and § 87(2)(b) tried to prevent officers from fully lodging him in the vehicle by keeping his legs outside the car and kicking at the door. § 87(2)(b) ended up lying on his back across the backseat with his head near the rear driver's side door. An unidentified uniformed officer allegedly opened that door and punched § 87(2)(b) in the face six or seven times (**Allegation H**).

Officers transported § 87(2)(b) to the intersection of West 145th Street and St. Nicholas Avenue, where the 145th Street A/B/C/D subway station is located. Sgt. Smith and PO Alejandro allegedly escorted § 87(2)(b) into the station through an entrance stairway. While bringing § 87(2)(b) down that stairway, Sgt. Smith allegedly released his grip on § 87(2)(b) so that § 87(2)(b) fell on the stairs (**Allegation I**). § 87(2)(b) arrested his fall by landing on a knee, and the right side of his forehead struck a handrail. Sgt. Smith and PO Alejandro brought § 87(2)(b) farther into the station. Upon reaching a set of turnstiles, Sgt. Smith allegedly pushed § 87(2)(b) head into the doorframe of an emergency exit gate, asked, "You want to fight us, motherfucker?" and then pushed § 87(2)(b) head into the gate again (**Allegations J and K**).

After being lodged in a cell inside the Transit District 3 stationhouse, § 87(2)(b) repeatedly screamed at officers and told them to remove his handcuffs. Sgt. Smith allegedly replied, "Oh, you like to fight motherfucker? We gonna keep you like that forever" (**Allegation L**). § 87(2)(b) continued to scream, and an unidentified uniformed officer entered the cell and slapped § 87(2)(b) in the face with the palm and back of his hand approximately ten times (**Allegation M**). The officer also told § 87(2)(b) "This is my house motherfucker" (**Allegation N**).

§ 87(2)(b) continued to scream about the pain his handcuffs were causing to his wrists for about an hour. Eventually officers removed § 87(2)(b) handcuffs after he promised to cooperate with arrest processing and with being fingerprinted. At this point, PO Alejandro, PO

Camacho, Sgt. Smith, and the unidentified uniformed officer were in the cell with § 87(2)(b) then refused to be fingerprinted and repeatedly said that he wanted to go to the hospital, but he was not given medical attention (**Allegation O**). Sgt. Smith allegedly told § 87(2)(b) “You don’t fucking run the show” (**Allegation P**). The unidentified uniformed officer allegedly said, “No, we’re gonna do your fucking prints first” (**Allegation Q**). Sgt. Smith allegedly punched § 87(2)(b) in the face twice during this conversation (**Allegation R**).

The unidentified uniformed officer, who was carrying a “big logbook,” told § 87(2)(b) he would give him five minutes to decide whether he was going to comply with the arrest processing procedures, and said, “Cause if not, we’re gonna come in here and we’re gonna whip your ass. We’re gonna fuck you up. One, for running from us. And two, cause you ain’t shit” (**Allegation S**). § 87(2)(b) continued to insist that he wanted medical attention. The unidentified uniformed officer allegedly struck § 87(2)(b) with the book in the head and face four or five times (**Allegation T**). PO Alejandro allegedly punched § 87(2)(b) in the back of the head (**Allegation U**). Sgt. Smith allegedly kicked § 87(2)(b) twice in the genitals (**Allegation V**). Sgt. Smith then allegedly wrapped his left hand around § 87(2)(b) throat and squeezed for approximately seven seconds (**Allegations W and X**).

§ 87(2)(b) cooperated with arrest processing and went to Central Booking, where he was diverted to § 87(2)(b) for an evaluation after complaining of a head injury. He was eventually arraigned and charged with § 87(2)(b).

On § 87(2)(b), he pleaded guilty to criminal possession of a forged instrument in the third degree § 87(2)(b).

No video footage was obtained during the investigation.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- On § 87(2)(b), § 87(2)(b) filed a Notice of Claim with the NYC Comptroller claiming \$100,000 in damages for false arrest and excessive force (BR01). The specifics of § 87(2)(b) Notice of Claim are detailed later in this report. § 87(2)(b)
- In the criminal case resulting from this incident, § 87(2)(b) pleaded guilty to criminal possession of a forged instrument in the third degree § 87(2)(b)
- § 87(2)(b)

Civilian and Officer CCRB Histories

- § 87(2)(b) was a victim in one previous CCRB complaint (BR04). § 87(2)(b)

- PO Jean Alejandro has been a member of the NYPD for four years and has had five previous CCRB allegations involving two cases with no substantiated allegations. He also has three allegations in a case regarding an incident which occurred after the incident in this case (see officer history).
 - In CCRB case #201703207, regarding an incident which took place on April 21, 2017, the complainant alleged that PO Alejandro removed him from a cell in the Transit District 3 stationhouse and punched him in the face after moving a surveillance camera. PO Alejandro also allegedly spoke discourteously to the complainant and failed to obtain medical treatment for him.
- Sgt. Bryan Smith has been a member of the NYPD for 15 years and has had five previous CCRB allegations involving three cases with no substantiated allegations (see officer history).

Potential Issues

- § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED] In total, he claimed to have been punched in the face 13-15 times, slapped in the face 10 times, struck in the face and head with a book 4-5 times, and punched in the back of the head once. He also claimed that his forehead was struck against the ground three times, against a subway exit gate twice, and against a subway handrail once.
- § 87(2)(b) [REDACTED] made numerous allegations regarding events which took place once he was lodged in the cells at the Transit District 3 stationhouse. The investigation located five individuals who were also lodged in the cells when § 87(2)(b) [REDACTED] was there § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] and obtained four phone statements and one partial phone statement from them. Only one of those individuals ultimately provided a sworn statement in person. All the witnesses recounted there being at least one prisoner who caused some sort of disturbance which precipitated a response from officers. § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)

- § 87(2)(b) alleged that an officer spoke discourteously to the large crowd of bystanders which formed at the scene of his arrest. He denied that he recognized any of the crowd members, and the investigation was unable to identify them. § 87(2)(g)
- A portion of the incident took place near the turnstiles of a subway station, where there may have been MTA surveillance cameras. However, MTA surveillance footage is deleted after 30 days, and the CCRB did not receive § 87(2)(b) complaint until roughly 43 days after the incident. § 87(2)(g)
- § 87(2)(b) and other witnesses recounted there being surveillance cameras in the cell area, and officers confirmed the existence of those cameras, though they did not know if the cameras actually recorded footage. As of the date of this report, the CCRB is not aware of any cameras at the Transit District 3 stationhouse which record and store footage, and no footage was obtained from the stationhouse.
- § 87(2)(b) recounted that, when he was in a cell, an officer threatened him with the use of force because he requested medical attention. When § 87(2)(b) continued to request medical attention, the officer instructed a plainclothed black male officer to turn a surveillance camera so that it was no longer pointed at § 87(2)(b) cell. Two of the witnesses § 87(2)(b) and § 87(2)(b) spontaneously recounted seeing an officer move a camera. However, one reported seeing a plainclothed white male officer move a camera, while the other only saw a uniformed female officer appear to move a camera back to its original position. Neither recounted hearing an officer instruct another officer to move a camera. § 87(2)(b) denied ever seeing an officer move a camera, and § 87(2)(b) did not recall seeing any cameras in the cells. All interviewed officers denied moving a camera or seeing any other officer do so. As previously mentioned, in CCRB case #201703207, PO Alejandro is accused of moving a camera in the cells before using force against a prisoner. In this case, no one accused PO Alejandro of moving a camera or instructing another officer to do so. § 87(2)(g)

Findings and Recommendations

Explanation of Subject Officer Identification

- PO Alejandro, PO Camacho, and Sgt. Smith all admitted to being involved in the initial physical struggle to apprehend § 87(2)(b) at the scene of the arrest. However, § 87(2)(b) alleged that only two officers were involved in that initial struggle. § 87(2)(g)
- § 87(2)(b) alleged that an unknown number of officers who arrived at the scene of the arrest used force against him, and that an unidentified uniformed officer punched him after he was

lodged in a vehicle. § 87(2)(g)

- § 87(2)(b) made numerous allegations regarding his time in the cells for which the subject officer was an unidentified Hispanic officer who was wearing a uniform with a blue shirt. § 87(2)(b) believed the officer was a supervisor and described him as the “command” officer, because he saw the officer sitting behind the main desk when he was brought into the stationhouse. The officer assigned to the desk at the time, Sgt. Haroon Sadiq, clearly did not match the physical description provided by § 87(2)(b). Sgt. Sadiq confirmed that he was working the desk when § 87(2)(b) was stamped into the command log. The physical description provided by § 87(2)(b) generally matched that of Lt. Kelvin Jaquez, who was the Special Operations Lieutenant on the date of the incident and was therefore the direct supervisor of the officers who arrested § 87(2)(b). However, Lt. Jaquez would have been dressed either in plainclothes or in a uniform with a white shirt. Lt. Jaquez also denied having any personal involvement with the incident and denied having ever seen § 87(2)(b) and all the other officers denied that Lt. Jaquez ever came into the cells to interact with § 87(2)(b). One of the witnesses also recounted seeing a supervisory officer who had been working at the desk come to the cells to talk to § 87(2)(b) but he could not describe the officer at all. His account of that interaction also differed significantly from that of § 87(2)(b). § 87(2)(g)

- § 87(2)(b) alleged that he repeatedly asked to go to the hospital when multiple officers entered his cell, but that the officers refused. Ultimately he did not go to the hospital until after reaching Central Booking. § 87(2)(b) recounted Sgt. Smith and PO Alejandro being among the officers to whom he directed his request. He also described the so-called “command” officer being there.

§ 87(2)(g)

Allegations not pleaded

- **Force:** § 87(2)(b) recounted that he tried to keep his legs outside the vehicle into which officers were lodging him, and initially claimed that officers tried to “slam” his leg with the door.

§ 87(2)(g)

- **Force:** In his handwritten complaint and his Notice of Claim, § 87(2)(b) alleged that the officers who arrested him used a chokehold at the scene of the arrest. He did not repeat this allegation during his CCRB interview, and instead claimed that a chokehold was used against him in the cells at the stationhouse. § 87(2)(g)

- **Discourtesy:** Many witnesses made various discourtesy allegations that were not made by § 87(2)(b).

§ 87(2)(b) § 87(2)(g)

- **Allegation A—Force: Opposite 2930 Eighth Avenue in Manhattan, Police Officer Jean Alejandro used physical force against § 87(2)(b)**

In his CCRB interview, § 87(2)(b) recounted that PO Alejandro, after attempting to purchase MetroCards from him, pushed him against a fence and told him, “It’s over” (BR05). § 87(2)(b) realized he was being arrested and immediately “tensed up” by clutching his arms to his chest such that his forearms were crossed and his fists were pointed toward his shoulders. § 87(2)(b) believed this constituted “nonviolent resistance” or “Martin Luther King resistance.” § 87(2)(b) claimed that PO Alejandro brought him to the ground immediately, but also said that he and PO Alejandro were in a “struggle” for some time before he went to the ground. § 87(2)(b) first recounted that PO Alejandro was the only officer to take him down, but later said that Sgt. Smith joined PO Alejandro in taking him down. § 87(2)(b) could not describe how PO Alejandro took him down. He came down on his front, and his forehead struck a small ledge at the base of the fence, which caused abrasions to his forehead.

§ 87(2)(b) arrest photograph shows minor abrasions on his forehead (BR06). His Pre-Arrestment Screening Form notes that he had facial abrasions (see Privileged Documents). His records from § 87(2)(b) show that he had “mild abrasions” to his forehead (see Privileged Documents).

PO Alejandro admitted that he took § 87(2)(b) to the ground (BR07). He also prepared a TRI report showing that he used a “forcible take down” (BR08). He recounted that, after he told § 87(2)(b) he was under arrest, § 87(2)(b) tried to crush and throw away the MetroCards and currency involved in the transaction. PO Alejandro grabbed § 87(2)(b) arms, and § 87(2)(b) began yelling, “No! No! You’re not going to arrest me!” while twisting and stiffening his body and flailing his arms. § 87(2)(b) escaped PO Alejandro’s grasp, and shortly afterward PO Alejandro, PO Camacho, and Sgt. Smith all grabbed § 87(2)(b). § 87(2)(b) escaped from the officers again, ran to a nearby fence, and grabbed it with both hands as if he intended to climb up it. PO Alejandro gripped § 87(2)(b) around the center of his body, pulled him off the fence, and brought him to the ground.

PO Camacho echoed PO Alejandro’s description of § 87(2)(b) resistance (BR09). He recounted that all three officers tried to pull § 87(2)(b) from the fence, and that once he was removed from the fence, § 87(2)(b) stood upright briefly before tucking his hands into his abdomen and going to the ground with his hands tucked beneath his body. Sgt. Smith gave a similar description of § 87(2)(b) resistance, but could not recall how § 87(2)(b) ultimately went to the ground (BR10).

§ 87(2)(g)

Patrol Guide Procedure 221-01 states that officers may use physical force when it is reasonable to place a person in custody. The physical force used must not be excessive (BR11).

§ 87(2)(g)

§ 87(2)(g)

- **Allegation B—Discourtesy: Opposite 2930 Eighth Avenue in Manhattan, Sergeant Bryan Smith spoke discourteously to § 87(2)(b)**

§ 87(2)(b) alleged in his CCRB interview that Sgt. Smith ran over after PO Alejandro took him to the ground and yelled, “I said it’s fucking over!” He later alleged that Sgt. Smith yelled, “Stop fucking resisting! It’s fucking over!” Although § 87(2)(b) initially recounted that Sgt. Smith only approached after PO Alejandro had taken him down, he later said that Sgt. Smith took him to the ground with PO Alejandro.

Sgt. Smith denied making the alleged statements or using any profanity at all during the struggle. He recounted repeatedly telling § 87(2)(b) during the struggle, “Stop resisting. Just give us your hands. It’s not a big deal.”

PO Camacho denied hearing any officer make the alleged statements. He recalled telling § 87(2)(b) “It’s over. Stop resisting. Give up your hands. Let us see your hands.” PO Alejandro could not recall if he heard any officer say, “It’s fucking over,” and could not recall if he ever said that. PO Alejandro recounted the officers telling § 87(2)(b) “Police. Police. We won. We won. Put your hands behind your back. It’s over. It’s over.”

§ 87(2)(g)

§ 87(2)(g)

- **Allegation C—Force: Opposite 2930 Eighth Avenue in Manhattan, Sergeant Bryan Smith used physical force against § 87(2)(b)**

In his CCRB interview, § 87(2)(b) initially alleged simply that Sgt. Smith punched him in the face once he was brought to the ground. When asked how many times Sgt. Smith punched him, § 87(2)(b) replied, “A lot!” However, when pressed to be more specific, § 87(2)(b) answered, “I would say around two. Twice.” § 87(2)(b) specified that Sgt. Smith punched him in the eye, and claimed that he sustained a black eye as a result, but he could not recall whether it was his right or left eye. § 87(2)(b) admitted that he was continuing to resist arrest at the time by keeping his arms and hands held tightly beneath his stomach as he lay on the ground, and that he was aware that the officers were trying to grab his hands and pull them behind his back so they could handcuff him. He was also screaming. He denied, however, that he made any other physical movements to resist arrest.

As mentioned, § 87(2)(b) claimed to have suffered a black eye as a result of Sgt. Smith’s use of force. His arrest photo does not appear to show any swelling about either of his eyes, and his Pre-Arrest Screening Form only mentions facial abrasions and a claim of a head injury. His Bellevue Hospital records, however, indicate that he had mild bruising about his left eye. A CAT scan found his facial soft tissues to be unremarkable. His DOC medical records show that a physical exam conducted two days after the incident found no physical injuries.

Sgt. Smith denied that he ever punched § 87(2)(b) and denied seeing any other officer do so. He tried to pull § 87(2)(b) left arm out from beneath his body. He did not recall § 87(2)(b) doing anything other than holding his arms underneath his body in order to resist arrest while on the ground.

PO Alejandro and PO Camacho denied that any officer ever punched § 87(2)(b) during the struggle to handcuff him. They both also tried to pull § 87(2)(b) arms out from beneath his body, and both recounted § 87(2)(b) twisting his body around and kicking his legs.

§ 87(2)(g)

§ 87(2)(g)

- **Allegation D—Force: Opposite 2930 Eighth Avenue in Manhattan, Sergeant Bryan Smith struck § 87(2)(b) against the ground.**

In his initial account of the incident during his CCRB interview, § 87(2)(b) briefly mentioned that Sgt. Smith struck his head against the ground after additional officers responded to a call for backup. However, during later questioning he said that Sgt. Smith struck his head against the ground before additional officers arrived. He claimed that Sgt. Smith grabbed his head with two hands and struck his forehead against the ground “about twice.” § 87(2)(b) did not specifically allege that an officer struck his head against the ground in either his handwritten complaint form or his Notice of Claim.

As previously mentioned, § 87(2)(b) claimed that he suffered abrasions to his forehead after his forehead struck the ground when PO Alejandro brought him down. In addition, and as will be detailed in later allegations, § 87(2)(b) claimed that his forehead was also struck against a subway handrail and exit gate. § 87(2)(b) arrest photo shows abrasions on his forehead. His Bellevue records showed that he had only mild abrasions to his forehead, and no sign of scalp injury or trauma. CAT scans were unremarkable.

Sgt. Smith denied that he ever grabbed § 87(2)(b) head or struck it against the ground. PO Alejandro and PO Camacho both denied seeing any officer do so.

§ 87(2)(g)

§ 87(2)(g)

- **Allegation E—Force: Opposite 2930 Eighth Avenue in Manhattan, officers used physical force against § 87(2)(b)**
Allegation F—Force: Opposite 2930 Eighth Avenue in Manhattan, Sergeant Bryan Smith used physical force against § 87(2)(b)

During his CCRB interview, § 87(2)(b) admitted that he kept his arms held tightly beneath him as he lay on the ground, and that he resisted officers' attempts to pull his hands out from beneath his body. He estimated that as many as 24 additional officers arrived on scene, but thought that only three of them joined the struggle to handcuff him. In his initial account of the incident, § 87(2)(b) claimed that an officer pulled one of his legs up while another officer punched him in the genitals, and that a third officer punched him in the side. He also claimed that Sgt. Smith was "doing a lot of the punching and kicking."

§ 87(2)(g)

When asked during the interview to describe the physical injuries he sustained as a result of the incident, § 87(2)(b) listed the forehead abrasions, a black eye, pain to his right lower back, and wrist lacerations. However, he also produced a copy of his Notice of Claim at the interview, in which he claimed to have suffered “many superficial lacerations” to his face, hands, knees, and arms. When asked to explain those injuries, § 87(2)(b) could only point to a small mark on his right forearm, and claimed there was another on his left forearm. He did not know how he sustained those injuries.

genitals or of having sustained genital injuries. His DOC medical records show that a physical exam conducted two days after the incident found no physical injuries.

Sgt. Smith, PO Alejandro, and PO Camacho all denied that any officers used any type of impact strikes against § 87(2)(b) during the struggle to handcuff him, and maintained that officers merely grabbed at § 87(2)(b) arms and attempted to pull them from beneath his body. They also all denied that any officer punched § 87(2)(b) once he was handcuffed and stood up.

§ 87(2)(g)

§ 87(2)(g)

- **Allegation G—Discourtesy: Opposite 2930 Eighth Avenue in Manhattan, Sergeant Bryan Smith spoke discourteously to individuals.**

During his interview, § 87(2)(b) recounted that a large crowd gathered around the officers as they were struggling to handcuff him. The crowd members yelled at the officers and expressed their discontent, especially after Sgt. Smith allegedly punched § 87(2)(b) in the face once he was handcuffed and standing. At that point, Sgt. Smith allegedly said to the assembled crowd, “I don’t give a fuck. It’s over. Throw his stupid ass in the car.” § 87(2)(b) first said that the crowd members were also “cursing out” the officers, but then flatly denied it when the undersigned mentioned it later.

As previously mentioned in the Potential Issues section, § 87(2)(b) claimed not to have recognized any of the bystanders, and the investigation did not independently identify any of them.

Sgt. Smith denied that he ever used profanity during the incident, and denied that he ever spoke to any of the bystanders. He recalled there being 20-30 bystanders, and in opposition to § 87(2)(b) account, Sgt. Smith claimed that some of the bystanders seemed to know § 87(2)(b) and yelled at him to surrender to the officers. PO Alejandro and PO Camacho both denied that any officer made the alleged statement. PO Alejandro recounted that some of the bystanders said they knew § 87(2)(b) and that he asked them to tell § 87(2)(b) to stop resisting. One of the bystanders told § 87(2)(b) “Put your hands behind your back. You’re going to jail and then you’ll get out.” PO Camacho echoed PO Alejandro’s account, recalling that one of the bystanders claimed to know § 87(2)(b) and told the officers that § 87(2)(b) was “off his meds.” PO Camacho asked that person to tell § 87(2)(b) to surrender, and the person did so.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

• **Allegation H—Force: Opposite 2930 Eighth Avenue in Manhattan, an officer used physical force against** § 87(2)(b)

§ 87(2)(b) recounted during his interview that he resisted being lodged in a vehicle after he was handcuffed. Officers tried to lodge him in the rear passenger seat of a vehicle, but he ended up lying on his back across the backseat with his head toward the rear driver's side door. He tried to keep his legs outside the vehicle and kicked out at the door to prevent officers from closing it. At this time, an unidentified uniformed officer allegedly opened the rear driver's side door and punched § 87(2)(b) in the face 6-7 times. When asked where on his face the officer punched him, § 87(2)(b) said his head, his forehead, his right temple, and all over his face. In his handwritten complaint form, § 87(2)(b) made no mention of any uniformed officers using force against him at the scene of the arrest.

PO Alejandro was one of the officers who escorted § 87(2)(b) to the vehicle. He attempted to lodge § 87(2)(b) in the backseat, but § 87(2)(b) refused to bend down to be seated and cursed at the officers. PO Alejandro and other officers placed § 87(2)(b) inside such that he was lying across the backseat, with his feet pointed toward PO Alejandro. PO Alejandro shut the door after getting § 87(2)(b) feet inside the vehicle. Another officer entered through the other rear door to move § 87(2)(b) into an upright, seated position. PO Alejandro could not identify this officer and could not recall if he was dressed in plainclothes or in uniform. PO Alejandro denied seeing that officer strike § 87(2)(b) in the face.

PO Camacho recounted that, in fact, he was the officer who opened the rear driver's door and entered the vehicle to properly lodge § 87(2)(b). He crawled across the backseat, gripped § 87(2)(b) around his hip, pulled him fully inside the vehicle, and sat him upright. PO Camacho then left the vehicle and closed the door. He denied that he ever punched § 87(2)(b) in the face, and denied seeing any other officer open the door again to punch § 87(2)(b) in the face.

Sgt. Smith said that he was catching his breath and was not watching as officers lodged § 87(2)(b) in the vehicle. He denied seeing an officer punch § 87(2)(b) in the face inside the vehicle.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

- **Allegation I—Force: In the 145th Street A/B/C/D subway station in Manhattan, Sergeant Bryan Smith used physical force against § 87(2)(b)**
Allegation J—Force: In the 145th Street A/B/C/D subway station in Manhattan, Sergeant Bryan Smith struck § 87(2)(b) against a gate.
Allegation K—Discourtesy: In the 145th Street A/B/C/D subway station in Manhattan, Sergeant Bryan Smith spoke discourteously to § 87(2)(b)

In his handwritten complaint form, § 87(2)(b) made no allegations regarding officer conduct when he was escorted into the subway station and to the Transit District 3 stationhouse. In his Notice of Claim, he alleged that he was “tossed down a flight of stairs, punched in the back of the head and rammed headfirst into a gate.”

In his interview, § 87(2)(b) recounted that, upon arriving at the intersection of 145th Street and St. Nicholas Avenue, Sgt. Smith and PO Alejandro escorted him from the vehicle to the entrance stairway leading down into the subway station. In his initial account, § 87(2)(b) said only that an officer said, “Oops,” when they reached the stairway, and that § 87(2)(b) then fell forward on the stairs. He “caught himself” on one knee and hit his face on something. During later questioning, § 87(2)(b) explained that after descending a few steps on the staircase, Sgt. Smith said, “Oops,” and either pushed him forward or simply let go of him. When asked to state exactly what physical action Sgt. Smith took, § 87(2)(b) said that both PO Alejandro and Sgt. Smith “rushed” him forward to gain momentum before letting go of him. When asked if both officers were holding onto him before he fell, § 87(2)(b) said, “The other one tried to fake catch me.” When asked again if both officers had let go of him, § 87(2)(b) first said that only Sgt. Smith did so, before quickly saying that both officers had let go of him. § 87(2)(b) also specified that the right side of his forehead struck a handrail after his knee came to the ground.

§ 87(2)(b) went on to allege that Sgt. Smith and PO Alejandro continued escorting him into the station, and stopped when they reached a set of turnstiles with an emergency exit door, which he described as a gate. In his initial account, § 87(2)(b) alleged that an officer pushed his head into the gate and said, “Oh, sorry.” The officer then said, “You want to fight us, motherfucker?” and pushed his head into the gate again. When later asked which officer pushed his head into the gate and cursed at him, § 87(2)(b) answered, “You know.” The undersigned expressed confusion and repeated the question, and § 87(2)(b) said that it was Sgt. Smith. He specified that Sgt. Smith pushed his head into the left side of the door frame after the officers opened the emergency gate. He was unable to say with certainty which part of his head struck the doorframe, but also said he thought it was the middle of his forehead.

§ 87(2)(b) never alleged during the CCRB interview that he was punched in the back the head while being escorted to the stationhouse.

Sgt. Smith believed that § 87(2)(b) was lodged in his vehicle, and that he drove the vehicle back to the stationhouse. He could not recall which other officer or officers were in the vehicle with him, and could not recall if either PO Alejandro or PO Camacho was in the vehicle. He recalled seeing officers at the intersection of 145th Street and St. Nicholas Avenue when he arrived there, but could not identify them. He had no recollection of escorting § 87(2)(b) into the subway station and to the stationhouse, and claimed that he did not see § 87(2)(b) between the point when he exited his vehicle and the point when § 87(2)(b) was presented at the desk inside the stationhouse. He explained that he would not have been personally involved in escorting § 87(2)(b) through the subway station, as typically he walks ahead and reaches the stationhouse first to aid in stamping a prisoner into the command log at the desk. He denied knowing which officers escorted § 87(2)(b) from the street down to the stationhouse.

PO Alejandro recounted that he rode back to the stationhouse with the patrol supervisor, whose identity he could not recall at the time of the incident. He did not know how Sgt. Smith and PO Camacho traveled to the stationhouse. PO Alejandro could not recall if § 87(2)(b) arrived at the intersection of 145th Street and St. Nicholas Avenue before he did. He only recalled arriving at the intersection and walking down through the station and into the stationhouse. When asked if he escorted § 87(2)(b) from the street to the stationhouse, PO Alejandro said, “I really don’t recall. I’m sorry.” However, he later said that the first time he saw § 87(2)(b) after lodging him in the vehicle at the scene of the arrest was when he entered the stationhouse and saw § 87(2)(b) in the cell area. It should be noted that the officers were not interviewed until between six and seven months after the incident.

PO Camacho denied traveling back to the stationhouse in the vehicle containing § 87(2)(b). He first saw § 87(2)(b) once he arrived at the stationhouse. § 87(2)(b) was already at the front desk area. PO Camacho denied that he was involved in escorting § 87(2)(b) from the street to the stationhouse, and denied knowing which officers did so.

All three officers denied committing or witnessing any of the allegations made by § 87(2)(b).

As previously mentioned, § 87(2)(b) § 87(2)(b) records indicate he had forehead abrasions and mild bruising about his left eye. He had no evidence of scalp injury or trauma, and CAT scans of his face, head, and neck were unremarkable.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

- **Allegation L—Discourtesy: In the Transit District 3 stationhouse, Sergeant Bryan Smith spoke discourteously to § 87(2)(b)**

§ 87(2)(b) alleged that Sgt. Smith and PO Alejandro lodged him in a cell alone. The two sets of handcuffs used to rear-cuff him were very tight and cutting into his wrists. The officers used a third set of handcuffs to chain the cuffs on § 87(2)(b) to a pole in the cell. § 87(2)(b) screamed repeatedly at the officers to remove his handcuffs, and Sgt. Smith allegedly replied, “Oh, you like to fight motherfucker? We gonna keep you like that forever.”

As previously discussed, the investigation obtained statements from five prisoners § 87(2)(b) who were also in the cells at the time of the incident.

In his phone statement, § 87(2)(b) did not spontaneously recount hearing any officer make a statement like the one alleged (BR12). When specifically asked if he heard an officer say, “You like to fight motherfucker,” he claimed to have heard an officer say it at some point after § 87(2)(b) was brought in, but could not recall anything else about the context of the statement or who said it. § 87(2)(b) also claimed that only uniformed officers were interacting with § 87(2)(b) and denied that any plainclothes officers ever interacted with § 87(2)(b) or entered his cell. This was in direct contradiction to § 87(2)(b) account of the incident. § 87(2)(b) also claimed that he heard the same officer make other profane statements to § 87(2)(b) but § 87(2)(b) alleged that those statements were made by another officer and not by Sgt. Smith.

In his phone statement, § 87(2)(b) did not spontaneously recount hearing any officer make a statement like the one alleged (BR20). After being presented with the statement, § 87(2)(b) insisted that he definitely heard an officer make the statement. However, § 87(2)(b) also denied that the prisoner to whom the officer was speaking ever complained about his handcuffs being too tight. His account of the prisoner’s interactions with officers also differed greatly from § 87(2)(b) account.

In his phone statement, § 87(2)(b) recounted hearing some profane statements, and said he could not recall any other profane statements (BR13). However, after being presented with the specific profane statements that § 87(2)(b) alleged, § 87(2)(b) insisted that he had, in fact, heard officers make many of the statements. With regard to the alleged profane statement in this allegation, § 87(2)(b) recalled hearing an officer ask, “You like to fight?” However, he did not recall hearing that statement with the word “motherfucker” inserted into it as alleged by § 87(2)(b). It should also be noted that § 87(2)(b) denied ever hearing any sounds coming from § 87(2)(b) cell that indicated that officers were using force against him, which directly contradicts § 87(2)(b) numerous allegations regarding officers using force against him in his cell.

In his phone statement, § 87(2)(b) did not recount hearing the alleged comment (BR14). In his in-person interview, § 87(2)(b) did not recount hearing the alleged comment, but did recall hearing an officer call § 87(2)(b) a “motherfucker” during what sounded like a physical struggle in § 87(2)(b) cell (BR15). § 87(2)(b) statements were especially unreliable, as he could not identify § 87(2)(b) from his arrest photograph, reported hearing § 87(2)(b) frequently speaking in Spanish, and recounted that § 87(2)(b) agitatedly complained of needing a bathroom before eventually urinating on himself.

§ 87(2)(b) began giving a phone statement but quickly refused to continue, hung up, and failed to respond to additional attempts to contact her (BR16). She did not recount hearing the alleged comment.

Sgt. Smith denied making the alleged statement. He recounted that he went to the Special Operations office after seeing that § 87(2)(b) arrest was noted in the command log. He remained in the office to approve various paperwork related to the arrest. He did not recall if he remained inside the office until the end of his tour, but he denied that he ever entered the cell area at any point, denied that he ever saw or interacted with § 87(2)(b) again, and denied that he ever became aware that § 87(2)(b) was causing problems in the cells or refusing to be fingerprinted.

PO Camacho denied hearing any officer ever make the alleged statement, and never recounted seeing Sgt. Smith in the cell area. He recounted that he, PO Alejandro, and other officers whose identities he could not recall lodged § 87(2)(b) in a cell. § 87(2)(b) handcuffs were removed once he was placed in the cell. PO Camacho went to the bathroom to regain composure and then began arrest processing. He returned to the cells no more than ten minutes later and found that § 87(2)(b) was calm.

PO Alejandro also denied hearing any officer ever make the alleged statement. He recounted that he went to the Special Operations office after entering the stationhouse to get water and remove his sweaty clothing. Sgt. Smith and PO Camacho were there already. PO Alejandro became aware that a PSA officer was at the stationhouse attempting to retrieve his handcuffs, which were one of the two sets used to restrain § 87(2)(b). PO Alejandro went to the cells to retrieve the cuffs, and found that § 87(2)(b) was in a cell and was boisterously yelling that he was wrongly arrested. PO Alejandro recalled seeing at least five officers in the cell with § 87(2)(b) but could not recall any of their identities. They were instructing § 87(2)(b) to remove string, belts, shoelaces, and jewelry from his person, and § 87(2)(b) was not complying. PO Alejandro could not recall if § 87(2)(b) was fully cuffed at this time. He retrieved the PSA officer's handcuffs and rejoined PO Camacho in the Special Operations office.

PO Katherine Abreu, who was § 87(2)(b)'s arresting officer, recalled lodging § 87(2)(b) in the cells but could not recall if she performed her arrest paperwork in the cell area (BR17). She had no recollection of § 87(2)(b) or of any unruly prisoners in the cells, and denied hearing officers use any profanity with a prisoner. Sgt. Sadiq, who was working the desk when § 87(2)(b) was brought into the stationhouse, did not have any independent recollection of § 87(2)(b) (BR18). It should be noted that Sgt. Sadiq was not interviewed until nine months after the incident. He confirmed that he would have been entering the cell area approximately once every 30 minutes to inspect the area, and he did not recall ever seeing any of the events in the cells recounted by § 87(2)(b). As previously mentioned, Lt. Jaquez denied that he ever saw § 87(2)(b) on the date of the incident (BR19).

§ 87(2)(g)

§ 87(2)(g)

- **Allegation M—Force: In the Transit District 3 stationhouse, an officer used physical force against § 87(2)(b)**
Allegation N—Discourtesy: In the Transit District 3 stationhouse, an officer spoke discourteously to § 87(2)(b)

In his handwritten complaint, § 87(2)(b) alleged that he was “assaulted” by a uniformed, Hispanic officer while his hands were cuffed behind him to a pole in a cell. In his Notice of Claim, he alleged that he was rear-cuffed to a pole and a Hispanic officer repeatedly slapped him. In his interview, he recounted that, at some point after being lodged in the cell, he began to scream repeatedly, “Ahh! Ahh! Ahh!” An unidentified Hispanic officer in uniform entered the

cell alone. § 87(2)(b) claimed there were no other officers outside the cell at this time. When he first described this portion of the incident, § 87(2)(b) recounted that the officer slapped him in the face. He punctuated his account by saying, “Boom! Boom!” When asked if he meant that the officer had slapped him twice, § 87(2)(b) countered that the officer slapped him “a lot.” When pressed to say how many times he was slapped, § 87(2)(b) replied, “I’d say about ten.”

§ 87(2)(b) elaborated by pretending to be the subject officer and acting out the alleged use of force. He narrated, “Motherfucker, look. *Bow! Bow! Bow! Bow!* You like to run from us? *Bow! Bow! Bow! Bow!* Look at it. *Bow! Bow! Bow!*” While narrating, § 87(2)(b) swung his arm back and forth, so as to imitate how the officer slapped him with the front and back of his open hand. Each use of the word “bow” indicated that the officer had slapped him once. He later added that the officer also said, “You like to fight?” and “You like to resist?” while slapping him, and that afterward the officer said, “Welcome to my house.” When later asked if the officer used any other profanity with him, he added that the officer actually said, “This is my house, motherfucker,” before he left the cell.

None of the witnesses was able to see if officers struck any prisoners. None of them recounted hearing anything which resembled the narrative presented by § 87(2)(b) and § 87(2)(b) all recounted hearing sounds that indicated that officers were using force against a prisoner inside a cell, but their descriptions were all quite different from the narrative provided by § 87(2)(b). In addition, each of the witnesses’ accounts regarding the possible use of force differed significantly from every other witness’ account. None of the witnesses spontaneously recounted hearing an officer make the alleged profane statements. § 87(2)(b) and § 87(2)(b) claimed to have heard the statement only after being specifically asked about it. However, neither could provide any context for the statement.

§ 87(2)(g)

As previously discussed, § 87(2)(b) medical records showed only mild bruising about his left eye and mild forehead abrasions. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

- **Allegation O—Abuse of Authority: In the Transit District 3 stationhouse, Sergeant Bryan Smith did not obtain medical treatment for § 87(2)(b)**
Allegation P—Discourtesy: In the Transit District 3 stationhouse, Sergeant Bryan Smith spoke discourteously to § 87(2)(b)

Allegation Q—Discourtesy: In the Transit District 3 stationhouse, an officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged in both his handwritten complaint and his Notice of Claim that he was denied medical attention after requesting it. In his interview, he recounted that he remained in his cell for approximately one hour screaming about the pain his handcuffs were causing to his wrists. Eventually officers removed his handcuffs after he promised to cooperate with arrest processing. However, he then refused to be fingerprinted and kept repeating, “I want to go to the hospital.” At this time, PO Alejandro and Sgt. Smith were in the cell with § 87(2)(b) along with the so-called “command” officer and an officer who was introduced to § 87(2)(b) as his arresting officer. Sgt. Smith allegedly replied, “You don’t fucking run the show,” and the “command” officer replied, “No, we’re gonna do your fucking prints first.”

§ 87(2)(b) did not spontaneously recount hearing a prisoner request medical attention, but when asked he said that he heard such a request after a large number of officers entered the cell, seemed to use force against that prisoner, and left the cell. He could provide no further details regarding which to which officer or officers the request was directed. § 87(2)(b) recounted that an unruly prisoner told the officers who brought him into the cells that his arm was messed up and that he wanted to go to the hospital. § 87(2)(b) also claimed that the officers physically carried the prisoner into the cell, and that the prisoner had “black and blues” around both of his eyes. § 87(2)(b) recounted in his phone statement that officers used seemed to use force against a prisoner in a cell, and that the prisoner later limped to the bathroom and asked to go to the hospital because his back, knee, and neck hurt. No officers responded to his request. In his in-person statement, § 87(2)(b) added that he heard an officer tell § 87(2)(b) that they would take him to the hospital when he shut up. § 87(2)(b) denied ever hearing a prisoner request medical attention or report that he was injured. None of the witnesses spontaneously recounted hearing the alleged profane statements or hearing an argument about whether a prisoner would be fingerprinted.

As previously discussed, Sgt. Smith claimed never to have entered the cell area or interacted with § 87(2)(b). He did not recall ever learning that § 87(2)(b) refused to be fingerprinted, he denied that § 87(2)(b) ever complained of injuries to him, and he denied that he ever learned that § 87(2)(b) had requested medical attention from any other officers. When asked how officers should respond to a prisoner who refuses to be fingerprinted, Sgt. Smith explained that once officers have exhausted attempts to convince the prisoner, they will typically take the prisoner to the hospital because Central Booking will not accept them without them “being cleared.” He could not explain what this meant, except that possibly there may be a question of whether the prisoner has a psychiatric condition because he refused to be fingerprinted.

PO Camacho recounted that he eventually came to § 87(2)(b) cell and told him it was time for him to be fingerprinted. § 87(2)(b) claimed that he did not get fingerprinted “at the precinct,” and that he only gets fingerprinted at Central Booking. PO Camacho found this nonsensical, and he left the cells briefly to consult with Sgt. Smith. Sgt. Smith instructed PO Camacho that § 87(2)(b) would have to go to the hospital if he refused to be fingerprinted, because he would be considered a “John Doe.” PO Camacho returned to the cells and relayed this information to § 87(2)(b) who continued to refuse to be fingerprinted. However, § 87(2)(b) eventually relented. PO Camacho denied that § 87(2)(b) ever complained of injuries or asked for medical attention.

PO Alejandro echoed PO Camacho’s statement, recounting that PO Camacho came to the Special Operations office and reported that § 87(2)(b) was refusing to be fingerprinted. PO

Alejandro accompanied PO Camacho to the cells, where § 87(2)(b) claimed that he only gets fingerprinted at Central Booking. PO Alejandro tried to convince § 87(2)(b) to submit to fingerprinting. During this conversation, he offered medical attention to § 87(2)(b). He denied that § 87(2)(b) ever requested medical aid or complained of injury, and said that he offered medical aid because he thought that § 87(2)(b) might be refusing to be fingerprinted because he might be hurt and did not want to interact with officers. § 87(2)(b) told PO Alejandro that he did not want medical attention, and eventually agreed to be fingerprinted.

Lt. Jaquez and Sgt. Sadiq both denied that there is any such procedure whereby a prisoner who refuses to be fingerprinted will be taken to the hospital. In such cases, the prisoner will still be taken to Central Booking.

§ 87(2)(g)

§ 87(2)(g)

- **Allegation R—Force: In the Transit District 3 stationhouse, Sergeant Bryan Smith used physical force against § 87(2)(b)**
Allegation S—Abuse of Authority: In the Transit District 3 stationhouse, an officer threatened § 87(2)(b) with the use of force.
Allegation T—Force: In the Transit District 3 stationhouse, an officer struck § 87(2)(b) with a blunt instrument.
Allegation U—Force: In the Transit District 3 stationhouse, Police Officer Jean Alejandro used physical force against § 87(2)(b)
Allegation V—Force: In the Transit District 3 stationhouse, Sergeant Bryan Smith used physical force against § 87(2)(b)
Allegation W—Force: In the Transit District 3 stationhouse, Sergeant Bryan Smith used a chokehold against § 87(2)(b)
Allegation X—Force: In the Transit District 3 stationhouse, Sergeant Bryan Smith restricted § 87(2)(b) breathing.
Allegation Y—Abuse of Authority: In the Transit District 3 stationhouse, Sergeant Bryan Smith threatened § 87(2)(b) with the use of force.

In his handwritten complaint, § 87(2)(b) alleged that Sgt. Smith, PO Alejandro, the officer who allegedly slapped him, and his “so-called” arresting officer entered his cell and “assaulted” him. In his Notice of Claim, he alleged that four officers entered his cell and “viciously assaulted and battered” him. In both accounts, § 87(2)(b) mentioned that an officer turned a camera away from his cell.

§ 87(2)(g)

He initially recounted that the “command” officer responded to his refusal to be fingerprinted by entering his cell with a “big logbook” which he described as a very thick hardcover book. The officer asked, “Oh really? You think you’re gonna run our show?” The officer said he would give § 87(2)(b) five minutes to think about his choice, and said, “Cause if not, we’re gonna come in here and we’re gonna whip your ass. We’re gonna fuck you up. One, for running from us. And two, cause you ain’t shit.” § 87(2)(b) continued to insist upon going to the hospital, and the “command” officer instructed a black male officer in plainclothes to turn a nearby surveillance camera so that it no longer faced § 87(2)(b) cell. The black male officer did so and then entered the cell. At this point, PO Alejandro, Sgt. Smith, the “command” officer, § 87(2)(b) “arresting officer,” and the plainclothed black male officer were inside the cell.

§ 87(2)(b) explained that at the time he was thinking, “I have to let them do this. If they kill me, that is what it is.” When prompted to explain what happened next, § 87(2)(b) replied, “You know what they did.” The undersigned again pressed § 87(2)(b) to actually describe what took place, and § 87(2)(b) answered, “They ran in there and whipped my ass.” The undersigned again prompted § 87(2)(b) to actually describe what happened, and § 87(2)(b) replied simply that the officers beat him up.

The undersigned again told § 87(2)(b) to actually describe what happened, and he launched into a rapid recounting of a physical assault. He alleged that the “command” officer struck him in the head and face with book. PO Alejandro punched him multiple times in the back of the head. His “arresting officer” held him down while the plainclothed black male officer kicked him “all around” and specifically in the “nuts” and “butt.” Sgt. Smith then choked § 87(2)(b) and told him, “We run the show.” § 87(2)(b) later specified that Sgt. Smith allegedly choked him by grabbing his throat with his left hand and squeezing for approximately seven seconds, and § 87(2)(b) breathing was completely restricted for approximately five or six seconds. Sgt. Smith also allegedly told § 87(2)(b) that he would “end up in Bellevue” and he would “be in a body bag” if he continued to refuse to comply with the arrest processing procedures.

§ 87(2)(g) He now alleged that Sgt. Smith punched him twice in the face before the “command” officer gave him five minutes to consider whether he would agree to be fingerprinted. He specified that the “command” officer struck him approximately 4-5 times with the book. Although he had first alleged that PO Alejandro punched him multiple times in the back of the head, § 87(2)(b) now said that he did not know many times he was struck before saying it was “probably only one time.” Although § 87(2)(b) had claimed that his “arresting” officer held him down during the assault, he now denied that he ever said that, and claimed that PO Alejandro had been holding him down. Similarly, although § 87(2)(b) had claimed that the plainclothed black male officer kicked him in the buttocks and genitals, he now denied ever making that claim, and instead claimed that Sgt. Smith kicked him twice in the genitals. He also now denied that he was ever kicked anywhere else on his body.

§ 87(2)(g)

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g) [REDACTED] § 87(2)(b) [REDACTED] recalled hearing “a big, loud rumble back and forth,” but did not spontaneously allege that officers ever used any force against a prisoner. When asked, he first said he thought that officers did use force, but then was not sure and denied that he heard anything to indicate that officers were striking a prisoner. He could not provide any further information regarding whether officers used force. § 87(2)(b) [REDACTED] denied that he ever heard any sounds indicating that officers were using force with a prisoner. § 87(2)(b) [REDACTED] also denied that officers used force against a prisoner.

§ 87(2)(b) [REDACTED] recounted seeing 9-10 uniformed officers enter a prisoner’s cell shortly after the prisoner was lodged, and he heard “a lot of pounding” which he felt was consistent with the officers using force against the prisoner. The prisoner was screaming for the officers to stop. He denied that any plainclothes officers ever entered the cell. He was transported to Central Booking with that prisoner, and denied seeing any injuries on him during transport.

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

All the officers interviewed denied that any force was ever used against § 87(2)(b) [REDACTED] in the cells, that officers used any profanity with him, or that any officers ever threatened him with the use of force.

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

Squad: 8

Investigator:	_____	<u>Daniel Giansante</u>	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date